

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

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|---------------------------------|---|-------------------|
| AUDREY LIDDELL, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | No. 4:19CV671 RLW |
| |) | |
| SPRINGTIME HOUSE, INC., et al., |) | |
| |) | |
| Defendants. |) | |

MEMORANDUM AND ORDER

This matter is before the Court on various motions filed by both parties. On December 31, 2019, Plaintiff Audrey Liddell filed a Motion for Leave to Amend the Complaint and Join Additional Defendant Bake One, Inc. (ECF No. 42) Under the Court's Amended Case Management Order (ECF No. 29), the deadline to file any motions for joinder of additional parties or amendment of pleadings was January 1, 2020. Accordingly, the Court grants leave and directs the Clerk of Court to file the attached Second Amended Complaint for Damages (ECF No. 42-2). *See* Fed. R. Civ. P. 15(a)(2) ("[A] party may amend its pleading only with the opposing party's written consent or the court's leave. The court should freely give leave when justice so requires.").

The Court further finds that the filing of Plaintiff's Second Amended Complaint resolves the other pending motions. First, Defendants Sam's Club, Inc. and Springtime House, Inc. filed separate Motions to Strike Plaintiff's Claim for Punitive Damages. (ECF Nos. 9 & 12) Both motions were directed at the First Amended Petition for Damages filed in state court. Because the Second Amended Complaint is now the operative complaint in this case, both motions to strike are denied as moot.

Second, Defendant Springtime House, Inc. filed a Motion to Substitute Parties. (ECF No. 36) According to the attached affidavit of Defendant Springtime House, Inc.'s president, Bake One, Inc. was the actual producer, packager, and distributor of the product at the center of this case. Plaintiff opposes the motion because, at this stage in the litigation, she has not been able to evaluate what if any role Defendant Springtime House, Inc. might have had in the supply chain. (ECF No. 40) This motion is also now moot in light of the Second Amended Complaint in which Plaintiff names both Springtime House, Inc. and Bake One, Inc. as defendants. The Court will consider any future motion or stipulation for dismissal if the facts show Defendant Springtime House, Inc. should be dismissed.

Lastly, Plaintiff filed a Motion to Compel Discovery and Motion for Sanctions related to allegedly late and deficient discovery production. (ECF No. 24) According to the separate responses filed by Defendants Springtime House, Inc. and Sam's Club, Inc. (ECF Nos. 33 & 38), the problems have since been cured. Consequently, the Court denies Plaintiff's motion as moot.

Accordingly,


IT IS HEREBY ORDERED that Plaintiff's Motion for Leave to Amend the Complaint and Join Additional Defendant Bake One, Inc. (ECF No. 42) is **GRANTED** and the Clerk of Court shall file the attached Second Amended Complaint for Damages (ECF No. 42-2).

IT IS FURTHER ORDERED that Defendants Sam's Club, Inc. and Springtime House, Inc. separate Motions to Strike Plaintiff's Claim for Punitive Damages (ECF Nos. 9 & 12) are **DENIED as moot**.

IT IS FURTHER ORDERED that Plaintiff's Motion to Compel Discovery and Motion for Sanctions (ECF No. 24) is **DENIED as moot**.

IT IS FURTHER ORDERED that Defendant Springtime House, Inc.'s Motion to Substitute Parties (ECF No. 36) is **DENIED as moot**.

Dated this 2nd day of January, 2020.



RONNIE L. WHITE
UNITED STATES DISTRICT JUDGE